

Gift Acceptance Policy

Approved and Adopted September 14, 2021

Gift Acceptance Policy

	Page[s]
Section I: <u>MISSION STATEMENT</u>	2
Section II: <u>STATEMENT OF PURPOSE</u>	2
Section III: <u>GENERAL POLICIES</u>	2
A. Gift Acceptance Personnel	2-3
B. Professional Advice	3
C. Compliance with Tax Laws and Requirements	3
D. Naming Opportunities and Endowed Funds	3
1. Naming Opportunities	3
2. Endowed Funds	3-4
E. Donor Recognition and Anonymity	4
F. Restricted Gifts	4
G. Commissions or Other Compensation	4
Section IV: <u>GIFT EVALUATION</u>	5
A. Gift Evaluation Process	5
B. Gift Rejection or Revocation	5
Section V: <u>GIFTS ACCEPTED</u>	5
A. Outright Gifts	5
1. Gifts of Cash	5
i. Donor-Advised Funds and Private Foundations	
ii. Matching Programs	
2. Gifts of Tangible Property	6
i. Tangible Personal Property (Excluding Works of Art)	
ii. Works of Art	
iii. In-Kind	
3. Securities	7
4. Real Property	7
5. Oil, Gas, and Mineral Interests	7
6. Copyright Interests	8
7. Speculative Assets	8
8. Direct Pledges	8
B. Planned Gifts	8-9
1. Bequests (Excluding Works of Art)	9
2. Bequests of Works of Art	9
3. Gifts from Trusts	9-10
4. Retained Life Estates	10
5. Retirement Plan Beneficiary Designations	10
6. Life Insurance Beneficiary Designations	10
C. Other Gifts	10
D. Management Procedures	10

Gift Acceptance Policy

Museum of Fine Arts, Houston GIFT ACCEPTANCE POLICY

I. MISSION STATEMENT

The Museum of Fine Arts, Houston is dedicated to excellence in collecting, exhibiting, preserving, conserving, and interpreting art for all people.

II. STATEMENT OF PURPOSE

The purpose of this Gift Acceptance Policy (the “Policy”) is to govern the acceptance of gifts to the Museum of Fine Arts, Houston (“MFAH”). The MFAH includes three other sites/house museums (1) Bayou Bend Collection and Gardens, (2) Glassell School of Art, and (3) Rienzi. This Policy applies to the MFAH, Bayou Bend Collection and Gardens, Glassell School of Art, and Rienzi. This policy has been adopted to provide clarity about the process for the review and acceptance of gifts, to ensure that all gifts are in the best interests of the MFAH, that contributions support and further the mission of the MFAH, and that the MFAH has the capacity and resources to steward the gift and meet donor obligations. This policy is intended to govern the acceptance of all gifts to the MFAH including current and deferred gifts, pledges, bequests, and planned gifts. The policy covers gifts of cash, securities, art, other tangible property, intangible rights, real estate and services. On occasion, a proposed gift may not be covered by this policy specifically. In such instances, it shall be the responsibility of the employee soliciting or offered the gift to consult with the MFAH’s Chief Development Officer who, in consultation with the Chief Financial Officer and/or Director, shall determine whether and under what circumstances the proposed gift may be accepted. The MFAH will seek the advice of qualified legal and financial counsel whenever appropriate.

III. GENERAL POLICIES

A. Gift Acceptance Personnel

Potential donors should first consult with the MFAH’s Development Department before making a gift. For questions or to schedule a consultation, donors should contact:

Outright Gifts:

Office of the Chief Development Officer
Telephone: (713) 639-7570

Gift Compliance:

Office of the Deputy Chief Development Officer, Operations
Telephone: (713) 639-7537

Deferred (Planned) Gifts, Special Gifts and Gifts of Art:

Office of the Senior Development Officer, Special Gifts
Telephone: (713) 353-1587

More detailed contact information may be found at mfah.org/give/contact

Gift Acceptance Policy

B. Professional Advice

The MFAH does not give legal, financial, accounting, tax, and/or estate planning advice to donors. Donors are encouraged to consult with their own legal, financial, accounting, tax, and/or estate planning advisors to determine the advisability of charitable donations to the MFAH, including any tax treatment of a proposed contribution, and bear sole responsibility for conclusions therein.

The MFAH does not select, hire, or pay for a donor's legal, accounting, tax, and/or estate planning advice and is prohibited from providing an appraisal of a proposed gift.

C. Compliance with Tax Laws and Requirements

The MFAH shall comply with all tax laws and other legal requirements regarding gifts. Additionally, the MFAH shall comply with all Internal Revenue Service reporting requirements.

The MFAH will not knowingly facilitate a donor claiming an improper tax deduction or other benefit in connection with a gift to the MFAH. No proposed gift shall be accepted if it generates an improper "private benefit" for the donor or if the proposed gift is an "excess benefit transaction" (as defined under section 4958(c) of the Internal Revenue Code of 1986, as amended). The MFAH's legal counsel will review proposed gifts with unusual structures or aspects to ensure that the MFAH will not knowingly facilitate an improper tax or other benefit.

D. Naming Opportunities and Endowed Funds

1. Naming Opportunities

Naming opportunities are available for endowed funds, curatorships/other staff positions, buildings, rooms, facilities or other capital projects for which MFAH has authorized construction or has approved for donor recognition, memorial, or other purposes. The MFAH is authorized to develop and revise lists of gift opportunities, with an indication of the amounts required for naming.

2. Endowed Funds

Endowed Funds are generally only established for gifts of \$100,000 or more. Endowed Funds are invested and the income recognized in accordance with the guidelines as established by the Board of Trustees of the MFAH and/or the Endowment for the Museum of Fine Arts, Houston. Endowed funds shall be pooled and invested, and distributions therefrom shall be determined in accordance with the MFAH's then current spending policy. The income from Endowed Funds may be added to Funds from other sources to achieve the intended purpose. Upon occasion, Endowed Funds may be established at less than the required amount when the donor's written or verbal intent is to meet the funding requirements within a mutually agreed upon period of time. Should contributions to a fund not reach the threshold amount of \$100,000 by the required time period, the Board may choose to dissolve the Fund. In the event that the Fund is dissolved, all of the contributed assets as of such date, plus any returns thereon or growth thereof, may be disbursed to the MFAH and be used at the discretion of the MFAH while still crediting the Donor for any contributed assets. The MFAH shall administer all endowed funds in accordance with the Texas Uniform Prudent Management of Institutional Funds Act ("TUPMIFA") as amended from time to time, and other applicable laws.

Gift Acceptance Policy

The MFAH may approve the establishment of named or memorial funds upon the receipt of gifts or bequests in specified minimum amounts for specific purposes. Named Endowed Funds are subject to a change in use if the stated purpose of the fund becomes impractical, impossible or obsolete, or it becomes advisable to deviate from the express purposes of the gift to further the mission or programs.

E. Donor Recognition and Anonymity

Donors shall receive appropriate recognition for their gifts, except for gifts which have been specifically designated by the donor as “anonymous.” Donor recognition may include, but is not limited to, listing of gifts in the Annual Report and other MFAH publications, media publicity, special events, “donor walls” and other signs listing donor gifts, and “naming opportunities” for specific programs and collections or museum locations. When gifts are made “in honor of” or “in memory of” an individual(s)—a notice will be sent to the individual(s) being honored, or to the party being honored or memorialized.

Decisions regarding appropriate recognition for gifts shall be made by the MFAH.

The MFAH will attempt to honor a donor’s request to remain anonymous with regard to his or her gift, provided that the request does not conceal a conflict of interest (real or perceived), or raise another ethical concern. The MFAH must make any and all disclosures that are required by law. If the MFAH is unable to comply with a donor’s request for anonymity, the MFAH will notify the donor as soon as possible.

F. Restricted Gifts

The MFAH accepts gifts directed to specific activities, funds, and departments. As a general rule, all gifts must support currently undertaken or planned initiatives. The MFAH must also preserve the flexibility to manage any planned initiatives in its professional discretion and in service to the public benefit. Accordingly, the MFAH may decline or require a modification of proposed restrictions should they impose significant administrative, financial, legal and/or operational burdens.

Donations restricted to programs that may provide a benefit to the donor (i.e special events, patron groups or the annual fund drive) are subject to all IRS Guidelines, and may have a fair market value associated with them unless the donor chooses to waive all benefits.

G. Commissions or Other Compensation

No finder’s fee or compensation of any type will be paid by the MFAH to any employee in connection with the completion of a gift as per the MFAH’s Code of Ethics and the code of ethics of the Association of Fundraising Professionals and the National Committee on Planned Giving.

IV. GIFT EVALUATION

As detailed in Section III.A. all donors should first consult with the MFAH’s Development Staff to begin the process of making a gift. Such consultation does not bind a potential donor to give nor does it necessarily indicate museum acceptance.

Gift Acceptance Policy

A. Gift Evaluation Process

All gifts are carefully considered by the MFAH. When appropriate, proposed gifting instruments and/or legal agreements shall be reviewed by appropriate MFAH staff and legal counsel. When accepting any gift, the MFAH adheres to the policies and guidelines set forth by this Gift Acceptance Policy, in addition to the MFAH Pledge Acceptance and Management Policy, and the MFAH Collection Management Policy.

B. Gift Rejection or Revocation

The MFAH reserves the right to decline, reject, or revoke any gift.

The MFAH must reject or revoke certain gifts including but not limited to, those not in the best interest of, or not reflective of, the mission of MFAH; that which might constitute transactions prohibited by federal or state law; from which the MFAH will not receive an adequate benefit; that which the benefit of the gift is outweighed by the potential of negative publicity for the MFAH that would result from the transaction; that which come with restrictions or other terms that may violate any policy of the MFAH; and/or that which may compromise the MFAH's tax-exempt status under IRC § 501(c)(3).

At this time, the MFAH does not accept the following gifts: Term Life Insurance Policies, Immediate Charitable Gift Annuities, Deferred Charitable Annuities, Pooled Income Funds, or Digital Currency.

V. GIFTS ACCEPTED

This policy is provided solely as a courtesy to MFAH donors. The following information should not be construed as legal, accounting, estate planning, and/or tax advice.

A. Outright Gifts

1. Gifts of Cash

The MFAH accepts cash in any form including currency, personal checks, money orders, credit cards, and wire transfers. Cash gifts are accepted by the MFAH at any time, regardless of amount, and without prior approval. A cash gift can be made outright or may involve planned giving.

i. Donor-Advised Funds and Private Foundations

The MFAH accepts cash from donor-advised funds and private foundations. The MFAH complies with all current IRS guidelines when accepting gifts from donor-advised funds.

ii. Matching Programs

The MFAH accepts cash from matching programs when applicable. The MFAH complies with all current IRS guidelines when accepting matching gifts. Donors should carefully review the policies set forth by the contributing matching program, as many programs do not permit the donor to receive tangible benefits on the full value of the gift.

2. Gifts of Tangible Property

i. Tangible Personal Property (Excluding Works of Art)

Gift Acceptance Policy

To determine whether to accept a proposed gift of tangible property, the MFAH considers: whether the proposed gift is related to its mission; the financial value of, and any potential liabilities associated with, the proposed gift; the costs associated with receiving, maintaining, or selling the proposed gift (including costs of transportation, insurance, maintenance, storage, care, appraisals, and taxes); any restrictions on the sale or use of the proposed gift; and whether, if appropriate, the proposed gift can be easily sold without significant cost.

Unless stipulated by the donor and explicitly agreed to by the MFAH, the MFAH shall have sole discretion in making decisions about the retention, use, and disposition of tangible personal property donated to the MFAH.

ii. Works of Art

All gifts of works of art are subject to the guidelines outlined in the MFAH's Collection Management Policy. Potential gifts of art require the input of appropriate MFAH Staff and/or the MFAH Collections Committee to determine whether the donated artwork may be accessioned into the MFAH's collections. Works of art that do not fit into the MFAH's institutional collecting priority are declined. Any gifts of art may be subject to rejection or revocation as outlined. Art gifted and wholly owned by the MFAH cannot be retained by the donor for any period of time, and must physically be transferred to the MFAH upon transfer of ownership.

As detailed in Section III.A., all donors should first consult with the MFAH's Development Department to start the process of making a gift of art. The inquiry will then be directed to the appropriate curatorial staff member.

iii. In-Kind

Gifts of goods or services that further the MFAH's mission or provide budget relief may be accepted, including gifts intended for re-sale or auction. The MFAH evaluates gifts in-kind on a case-by-case basis.

The MFAH acknowledges gifts in-kind in writing, including a detailed description of the property or services donated, as well as a description of any goods or services provided in return, together with an estimated fair market value of those benefits as required by law. Donors are responsible for obtaining and paying for outside appraisals of gifts where required for the donor's tax return. The MFAH follows all IRS guidelines relating to accepting and reporting all in-kind gifts.

3. Securities

The MFAH accepts both publicly traded securities and readily marketable securities, including stocks and bonds. The MFAH accepts closely held securities upon approval by the MFAH's Chief Financial Officer. Both publicly traded securities and closely held securities generally will be sold upon receipt unless otherwise decided by the MFAH's Chief Financial Officer. The MFAH will not

Gift Acceptance Policy

accept options and other rights in securities. The value of a gift of stocks or bonds is taken from the high and low average on the day that the gift transacts.

The MFAH will consider various factors in deciding whether to accept closely held securities, including, but not limited to: legal and/or contractual restrictions on resale, transfer, or liquidation and company policy on the same; value of the proposed gift (potentially obtaining an independent appraisal); expectations of marketability; tax consequences; the nature of the company's business; and any potential exposure to liability of any kind. The MFAH's Chief Financial Officer must provide advance approval for all gifts that the donor proposes to pay using closely held securities.

4. Real Property

The MFAH accepts gifts of residential, business, commercial or undeveloped real estate on a case-by-case basis. Such gifts must adhere to all state and federal laws, including EPA regulations. The donor shall be responsible for obtaining and paying for an appraisal by an independent, qualified state-certified or licensed appraiser to determine fair market value of the property. Prior to consideration of a gift of real property, the MFAH may order a site inspection and environmental audit of the property, in cooperation with the donor and a third party inspector.

In determining whether to accept such gifts, the MFAH will review all potential benefits and burdens associated with the proposed gift and evaluate: the value of the property; whether there are any financial, environmental, or other liabilities that would be required to be assumed upon acceptance of the proposed gift; the costs of carrying the property, including, but not limited to, insurance, property, taxes, and maintenance; whether the property would be useful to the MFAH; whether the property would be readily marketable; whether the property is subject to any liens, easements, restrictions or other limitations; and whether the gift is a straightforward outright conveyance of a fee simple interest or whether the gift is encumbered by any other interest (e.g. a gift of a remainder interest or a gift of real estate to a charitable remainder trust).

5. Oil, Gas, and Mineral Interests

The MFAH accepts gifts of oil, gas, and mineral interests on a case-by-case basis. Interests must be approved by the MFAH's Chief Financial Officer, and if necessary, by the MFAH's legal counsel. The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate. A working interest is rarely accepted. Prior to accepting the interest, the asset may undergo an environmental review to ensure that the MFAH has no current or potential exposure to liability.

6. Copyright Interests

The MFAH may accept the transfer of copyright interests in materials including but not limited to works of art, videos, articles, manuscripts, publications and archives, provided that the copyright interest furthers the mission of the MFAH and is consistent with the MFAH's exempt purposes.

Gift Acceptance Policy

The mere granting of a license to use copyright protected materials is not considered a gift for purposes of this policy.

7. Speculative Assets

The MFAH's Chief Financial Officer must approve in advance the acceptance of any asset that is not reasonably expected to be used to satisfy or further the MFAH's exempt purposes and for which (a) there is no ready market to which the MFAH may go to liquidate the contribution and convert it to cash and (b) the value of the item is highly speculative or difficult to ascertain. Examples of speculative gifts include patent rights, trademarks, and stock options.

8. Direct Pledges

All pledges made to the MFAH must adhere to the MFAH Pledge Acceptance and Management Policy. All pledge documentation must include a pledge amount, payment date, and specific details about what the donor wishes to support with their gift. Only the entity with legal control over assets can make a pledge, and the donor must be financially capable of making the gift. Pledges are effective on the day the MFAH receives the required signed gift documentation.

If a donor wishes to make a multi-year pledge, the documentation must contain a detailed payment schedule and the donor must make a minimum of one payment per year. When a donor pledges to fund a work of art for the MFAH, the donor must fund the artwork within 60 days of making the pledge. If a donor requests a longer timeframe in which to pay for artwork, the pledge must be approved by the MFAH on a case-by-case basis.

The MFAH rarely accepts conditional pledges, and does not accept pledges for membership dues or contributions of goods/services. In the unfortunate event that a donor passes away prior to fulfilling a pledge, the pledge must then be fulfilled by the donor's estate. For accounting purposes, the MFAH only accepts pledges for gifts of \$1,000 or more.

B. Planned Gifts

A planned gift may be promised to the MFAH for unrestricted or restricted use. Restricted planned gifts often benefit the MFAH's endowment, or may be designated to support a specific area of interest, such as a curatorial department, the Glassell School of Art, Bayou Bend Collection and Gardens, or Rienzi. The MFAH acknowledges that when making a planned gift a donor's assets typically remain in his or her control during his or her lifetime, and the gift can be modified at any time. The most common types of planned gifts include bequests, bequests of works of art, the inclusion of the MFAH in a trust, a retained life estate, and donation of a life insurance policy or retirement assets.

Occasionally and only when the donor is at least 70 ½ years of age—the MFAH may execute a promised gift agreement that is considered a binding testamentary pledge, allowing for recognition as a part of a campaign. For accounting purposes, and outside of capital campaigns, the Museum does not count promised gifts as pledges. All promised gifts made to the MFAH must adhere to the MFAH Pledge Acceptance and Management Policy.

Gift Acceptance Policy

The Promised Gift Agreement is designed to be a binding document and intended to stand up in a court of law independent of or in addition to, a donors will, trust, or estate plan. The donor retains full use and control of the property until it is ultimately transferred to the MFAH.

As detailed in Section III.A., all donors should consult with the Senior Development Officer, Special Gifts to discuss options for including the MFAH in a will, trust, or estate plan.

1. Bequests (Excluding Works of Art)

Donors may promise future gifts to the MFAH by including a bequest provision in his or her will, trust, or estate plan, and/or by signing a Promised Gift Agreement. Bequests may be given to support general operations or for a specific purpose at the MFAH (donors should consult with the MFAH to ensure that the MFAH can carry out their wishes). Since bequests are made during the lifetime of the donor, they are revocable at any time. The donor retains full use and control of the property intended as a bequest gift. Types of bequests typically gifted by the MFAH include: cash, tangible personal property, securities, real property, and oil, gas, and mineral interests. All bequests are subject to the policies listed above in Section IV.

2. Bequests of Works of Art

Donors may promise a work or works of art to the MFAH by including a bequest provision in his or her will, trust or estate plan, and/or by signing a Promised Gift Agreement. Note that the Museum has no ownership in the object until the donor decides to give the work of art as an “outright gift,” or until the donor passes away. All promised gifts of works of art are subject to the guidelines outlined in the MFAH’s Collection Management Policy, and the policies previously stated in Section V.A.II. Promised gifts of art require the input of appropriate MFAH Staff and/or the MFAH Collections Committee to determine whether the promised artwork will be accessioned into the MFAH’s collections. As previously stated, works of art that fall below the threshold for accessioning or institutional sale or that do not fit into the MFAH’s institutional collecting priority are generally declined. Artwork will only be accepted when in accordance with the MFAH’s Collection Management Policy. Any promised gifts of art may be subject to rejection or revocation as outlined in Section IV, and when declined are subject to the terms outlined in the donors will or trust.

As detailed in Section III.A., all donors should first consult with the MFAH’s Development Department to begin the process of making a gift of art. The inquiry will then be directed to the appropriate curatorial staff member.

3. Gifts from Trusts

A donor may name the MFAH as a beneficiary of all or a portion of a trust. Additionally, the MFAH may accept a designation as income beneficiary of a charitable lead trust. The MFAH will not serve as trustee of trust agreements and instead encourages donors to use a professional fiduciary.

Gift Acceptance Policy

4. Retained Life Estates

A donor may transfer their residence, farm or vacation home to the MFAH in the form of a “Retained Life Estate.” Prior to the MFAH accepting the property, the gift is subject to all of the policies outlined in Section IV.A.4.

5. Retirement Plan Beneficiary Designations

A donor can name the MFAH as beneficiary of an IRA, 401(k) or other qualified plan. Any residual left in the plan upon the donor’s death passes to the MFAH free of tax. As an alternative, a donor can elect to leave retirement plan assets to the MFAH through a will or revocable trust. Donors should consult their financial and/or tax advisor when considering making a gift of retirement assets.

6. Life Insurance Beneficiary Designations

Donors may designate the MFAH as the named beneficiary and irrevocable owner on the donor’s life insurance policy. The full amount received upon donor’s death will be reported as an estate gift on the date that the proceeds are delivered. Alternatively, a donor may transfer ownership of a fully-paid insurance policy to the MFAH, provided that the terms of the policy allow. The MFAH must be assigned as both an irrevocable beneficiary and owner of the policy before it can be recorded as a gift. In such case, the insurance policy must be a whole life, universal, or “permanent life” policy with a cash surrender value. The MFAH cannot accept a gift of term life insurance with no cash surrender value.

C. Other Gifts

The Museum may accept other types of gifts on a case-by-case basis. As detailed in Section III.A., all donors should first consult with the MFAH’s Development Department to begin the process of making a gift.

D. Management Procedures

The Management of the MFAH is authorized to issue procedures and to do all acts as may be necessary or appropriate from time to time in order to carry out this policy.